

Internal Revenue Service, Treasury

§ 1.662(b)-2

and by the means of the parent, it is to be determined without consideration of the trust income in question.

§ 1.662(b)-1 Character of amounts; when no charitable contributions are made.

In determining the amount includible in the gross income of a beneficiary, the amounts which are determined under section 662(a) and §§ 1.662(a)-1 through 1.662(a)-4 shall have the same character in the hands of the beneficiary as in the hands of the estate or trust. The amounts are treated as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income of the estate or trust unless the terms of the governing instrument specifically allocate different classes of income to different beneficiaries, or unless local law requires such an allocation. For this purpose, the principles contained in § 1.652(b)-1 shall apply.

§ 1.662(b)-2 Character of amounts; when charitable contributions are made.

When a charitable contribution is made, the principles contained in §§ 1.652(b)-1 and 1.662(b)-1 generally apply. However, before the allocation of other deductions among the items of distributable net income, the charitable contributions deduction allowed under section 642(c) is (in the absence of specific allocation under the terms of the governing instrument or the requirement under local law of a different allocation) allocated among the classes of income entering into the computation of estate or trust income in accordance with the rules set forth in paragraph (b) of § 1.643(a)-5. In the application of the preceding sentence, for the purpose of allocating items of income and deductions to beneficiaries to whom income is required to be distributed currently, the amount of the charitable contributions deduction is disregarded to the extent that it exceeds the income of the trust for the taxable year reduced by amounts for the taxable year required to be distributed currently. The application of this section may be illustrated by the fol-

lowing examples (of which example (1) is illustrative of the preceding sentence):

Example 1. (a) A trust instrument provides that \$30,000 of its income must be distributed currently to A, and the balance may either be distributed to B, distributed to a designated charity, or accumulated. Accumulated income may be distributed to B and to the charity. The trust for its taxable year has \$40,000 of taxable interest and \$10,000 of tax-exempt income, with no expenses. The trustee distributed \$30,000 to A, \$50,000 to charity X, and \$10,000 to B.

(b) Distributable net income for the purpose of determining the character of the distribution to A is \$30,000 (the charitable contributions deduction, for this purpose, being taken into account only to the extent of \$20,000, the difference between the income of the trust for the taxable year, \$50,000, and the amount required to be distributed currently, \$30,000).

(c) The charitable contributions deduction taken into account, \$20,000, is allocated proportionately to the items of income of the trust, \$16,000 to taxable interest and \$4,000 to tax-exempt income.

(d) Under section 662(a)(1), the amount of income required to be distributed currently to A is \$30,000, which consists of the balance of these items, \$24,000 of taxable interest and \$6,000 of tax-exempt income.

(e) In determining the amount to be included in the gross income of B under section 662 for the taxable year, however, the entire charitable contributions deduction is taken into account, with the result that there is no distributable net income and therefore no amount to be included in gross income.

(f) See subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code for application of the throwback provisions to the distribution made to B.

Example 2. The net income of a trust is payable to A for life, with the remainder to a charitable organization. Under the terms of the trust instrument and local law capital gains are added to corpus. During the taxable year the trust receives dividends of \$10,000 and realized a long-term capital gain of \$10,000, for which a long-term capital gain deduction of \$5,000 is allowed under section 1202. Since under the trust instrument and local law the capital gains are allocated to the charitable organization, and since the capital gain deduction is directly attributable to the capital gain, the charitable contributions deduction and the capital gain deduction are both allocable to the capital gain, and dividends in the amount of \$10,000 are allocable to A.